

EXHIBIT 8

Decision and Order (Amended) of September 11, 2020

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTYPRESENT: HON. ANDREA MASLEY

PART

IAS MOTION 48EFM

Justice

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LEONARD BLUM,

INDEX NO. 651721/2020MOTION DATE N/A

Petitioner,

MOTION SEQ. NO. 002

- v -

WESTWOOD CAPITAL HOLDINGS, LLC, and
WESTWOOD CAPITAL, LLC,**DECISION + ORDER ON
MOTION
AMENDED 9/11/2020**

Respondents.

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The following e-filed documents, listed by NYSCEF document number (Motion 002) 9, 10, 11, 12, 13, 15, 16

were read on this motion to/for

ENFORCEMENT

Upon the foregoing documents, it is

For the reasons stated on the record on September 9, 2020, petitioner's motion pursuant to CPLR 5229 is granted. However, the order is stayed until Tuesday, September 15, 2020. Until then, the Westwood respondents shall be restrained from selling, transferring, assigning or interfering with any assets they own or in which they have an interest except in the ordinary course of business. In the meantime, respondents shall provide to petitioner forthwith basic financial documents e.g. bank statements so the parties may have an intelligent conversation about how best to proceed in their mutual best interest.

In response to a 9/11/2020 letter from Westwood respondents received at 4:30 p.m. on 9/11/2020, the court clarifies that CPLR 5229 limits the restraint to the judgment debtor, not third parties e.g. banks. (Richard C. Reilly, Practice Commentaries, McKinney's Cons Laws of NY, Book 7B, CPLR C5229:1). The on the record discussion of *Unex Ltd. v Arsygrain Intern. Corp.*, 102 Misc 2d 810 [Sup Ct., NY County 1979] where restraining notices were issued to a bank pursuant to CPLR 5229, but vacated because the court found CPLR 5229 inapplicable to arbitration judgments should not be interpreted otherwise. However, *Unex* is not binding on this court and is contrary to the seismic shift favoring arbitration and application of the FAA to state courts since *Southland v Keating*, 465 US 1 (1984).

The court again urges the parties to resolve this matter and issues this clarification without waiting to hear from plaintiffs so that negotiations are not delayed by any confusion caused by this discussion on the record.

Accordingly, it is

ORDERED, that respondents shall answer or move by September 23, 2020; and it is further

ORDERED the return date on the petition, seq. 01, according to Room 130 is October 8, 2020. The court will reexamine the date depending on whether respondents answer or move. The parties shall notify the court by email to SFC-Part48@nycourts.gov by October 8, 2020 as to how they wish to proceed. The parties may stipulate to a briefing schedule and modify the return date accordingly; and it is further

ORDERED that petitioner shall submit the transcript to be so-ordered; and it is further

ORDERED that petitioner's motion 02 pursuant to CPLR 5229 is granted to the extent that after Monday September 14, 2020, petitioner may (1) restrain the Westwood defendants from selling, transferring, assigning or interfering with any assets they own or in which they have an interest up to the amount of the arbitration award until judgment against them has been entered herein by the clerk of the court, and (2) the Westwood defendants shall (a) produce documents concerning all matters relevant to satisfaction of the judgment, as may be requested by petitioner by subpoena duces tecum, within ten days following service of the subpoena, pursuant to CPLR 5224, and (b) attend a deposition upon oral questions, to be conducted using Zoom or other means acceptable to the parties, within thirty days following service of a subpoena ad testificandum, pursuant to CPLR 5224.

Motion Seq. No. 02 :

DATE 9/11/2020

CHECK ONE:

APPLICATION:

CHECK IF APPROPRIATE:

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☐

CASE DISPOSED

GRANTED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

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DENIED

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☐
☐

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER


FIDUCIARY APPOINTMENT

☐

OTHER

☐

REFERENCE


ANDREA MASLEY, J.S.C.